WP(C) 5396/2006
BEFORE
THE HON'BLE MR JUSTICE HN SARMA
Date of Hearing : 12.10.2007

Date of Judgment & Order : 12.10.2007

JUDGMENT AND ORDER (ORAL)

Heard Mr. M. H. Choudhury, learned counsel for the petitioner and also heard Mr. M. Das, learned Government Counsel for the Public Works Department.

2. The petitioner is the owner in respect of an RCC house situated at Juria Bazar in the Nagaon District which is taken on rent by respondent no. 3 to accommodate his office in the ground floor of RC building measuring 3500 Sq. ft. The standard rent has been fixed at Rs. 5,380/- per month by the Executive Engineer, PWD, Nagaon Building Division under the Assam Urban Rent Control Act, 1972. The grievance of the petitioner is that the rent in respect of the aforesaid house has been paid till February, 2000 and since then the respondent authorities have defaulted in payment of rent. Hence this writ petition.

3. The respondent no. 3 has filed counter affidavit. In the counter affidavit the respondent no. 3 stated that as the sanction for payment of house rent since March, 2000 is not received from the Govt. of Assam, Department of Social Welfare & Probation, Assam, Guwahati, so the same could not be paid and that the house rent shall be paid as and when sanction is received.

4. The payment of house rent by a tenant is its legal/statutory obligation under the law. It is an admitted fact that the house rent for the period from March, 2000 till date has not been paid to the petitioner. When the respondent authorities are using and occupying the house of the petitioner it is their obligation to discharge the liability of the payment of the necessary rent as fixed by the authority.

5. Mr. Das, learned Government Advocate has strenuously submitted that the writ petition is not maintainable in view of the nature of relief so made and the petitioner may approach the Civil Court for necessary relief. It is submitted that at any rate the claim for rent beyond 3 years is barred by limitation. However Mr. Das could not deny the liability of the respondent to pay the arrear house rent to the petitioner.

6. Situated thus, I am of the view that the claim of respondent no. 3, as stated in the counter, that as the sanction for payment of house rent is not received from the Govt. of Assam, Department of Social Welfare & Probation, Assam, Guwahati, the rent could not be paid and non-payment of the same shall not invalidate the contractual agreement reached between the parties, nor wipe out the obligation to pay the monthly rent. Accordingly, it is directed that the respondent authorities shall clear the house rent of the petitioner immediately for preceding 3(three) years within a period of 3(three) months from the date of receipt of a certified copy of this order.

7. It would be the responsibility of the respondent no. 1, the Secretary to the Government of Assam, Department of Social Welfare & Probation, Assam to make necessary sanction of the amount for payment of house rent and the respondent no. 2, the Director, Department of Social Welfare & Probation, Assam shall disburse the arrear amount to the petitioner.

8. Although no order has been passed for the payment of rent beyond

the period of 3(three) years due to bar of limitation, that cannot discharge th e respondent authorities from their liability to pay the house rent to the petit ioner. There might be a bar in action from the side of the petitioner, but the l iability to pay the said amount by the respondent would remain to exist.

9. With the aforesaid direction, this writ petition stands closed.